

# **EXHIBIT 4**



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September 23, 2020

**Via Email and Certified Mail, Return Receipt Requested**

Jon R. Fetterolf, Esq.  
Zuckerman Spaeder LLP  
485 Madison Ave., 10<sup>th</sup> Floor  
New York, NY 10022

**Re: Full Circle United, LLC v. Bay Tek Entm't, Inc., No. 1:20-cv-03395-BMC**

Dear Jon:

We write in response to your letter dated September 15, 2020.

**Full Circle's Tarnishment of the Skee-Ball Trademark and Other Incurable Breaches**

Your assertions are hereby rejected. You misapprehend the level of wrongdoing that your client has engaged in, which is set forth in detail in Bay Tek's Counterclaims filed this week and hereby incorporated into this letter by reference. As set forth therein, Full Circle's breaches are incurable.<sup>1</sup>

Further, Full Circle's effort to excuse its misconduct by pretending it was unaware of these breaches only underscores its flippant approach to its obligations as a licensee of the Mark. Full Circle was well aware that its conduct was prohibited by virtue of the express terms of the License Agreement, which *unequivocally* prohibits such activities. It is beyond incredible to suggest that Full Circle and Mr. Pavony did not know, for example, that selling shirts labelled "Hepatitis Skee" would be in direct conflict to and damaging of a Mark "geared towards family and children."<sup>2</sup>

Given the totality of Full Circle's behavior and conduct, which reflects widespread, bad faith use of the Mark, there is no action that it could take that could remedy or remove the damage it has caused to the Mark. Full Circle's breaches are simply incurable under applicable law. Notwithstanding same, and while not required, Full Circle is hereby put on formal notice pursuant to § 11.6 of the License Agreement, of the numerous material breaches set forth in Bay

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<sup>1</sup> You claim Full Circle "cured any potential breach," by allegedly removing two (of the myriad) highly objectionable phrases Full Circle has promoted. Not only does this claim demonstrate a willfully myopic view of Full Circle's breaches of the License Agreement and blatant infringement of the Mark, it is false. Contrary to your assertion, Full Circle in fact continues to prominently feature the phrase "Skeemature Ejaculation," as reflected in the printout of <http://www.brewskeebeall.com/philadelphia> from today, enclosed herewith.

<sup>2</sup> Likewise, no reasonable reading of the License Agreement grants Full Circle the right to use the Mark in connection with the types of broadcasts Full Circle has made.



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Tek's Counterclaims and incorporated herein. This includes, but is not limited to, breaches of §§ 3.1, 3.2, 4.1, 4.2, 4.3, 4.5, 4.8, 5.1, 7.1, 7.2, 7.7, 7.8, and 14.4 of the License agreement, for reasons set forth in Bay Tek's Counterclaims.<sup>3</sup>

### **Recent Trademark Applications of Third Parties**

It is unclear to us why you have raised in your letter two trademark applications filed by third parties as these matters have nothing to do with Full Circle. Section 6 of the License Agreement provides that Bay Tek has sole discretion in whether or not to pursue infringement actions and the manner in which such actions are pursued, and that Bay Tek shall not incur liability to Full Circle based on its decision of whether or not to pursue such infringement actions or the manner in which it pursues such actions. Though it has no obligation to do so, Bay Tek informs you that it has sent a cease & desist letter to the applicant of "Skee Golf," and that an Office Action was recently filed by the USPTO against "Urban Forest," due to its references to Skee-Ball.

Nothing set forth herein, or omitted therefrom, is a waiver, concession, or admission as to any matter. All rights, remedies, claims, and defenses are expressly reserved.

Sincerely,

/s/ Jeffrey M. Movit

Jeffrey M. Movit  
A Professional Corporation for  
MITCHELL SILBERBERG & KNUPP LLP

JMM/sml  
Enclosure

cc: Shawn Patrick Naunton, Esq.  
Ezra B. Marcus, Esq.  
Christina Casadonte-Apostolou, Esq.  
Paul Thanasides, Esq.  
Eric Pavony, on behalf of Full Circle United, LLC  
John T. Johnson, Esq.  
Kristen McCallion, Esq.

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<sup>3</sup> Copies of this notice are hereby provided to Eric Pavony, John T. Johnson, and Kristen McCallion pursuant to § 18.6 of the License Agreement.